

**COMPLAINT INVESTIGATION
CLARK COUNTY SCHOOL DISTRICT
(#CL032513)**

Report Issued on 5/24/13

INTRODUCTION

On 3/25/13, the Nevada Superintendent of Public Instruction received a complaint (Complaint) from a Parent alleging violations of the Individuals with Disabilities Education Act (IDEA) and the Nevada Administrative Code (NAC) by the Clark County School District (CCSD) with respect to the implementation of the student's individualized educational program (IEP). The allegations set forth in the Complaint concerned the unwillingness of certain instructors to provide the accommodations in the student's IEPs, specifically: 1) the Math teacher did not allow extended time on math exams and quizzes from the beginning of the school year through early October and once again up to the date of the Complaint; 2) the Chemistry teacher did not allow the student to self-advocate on homework assignments for the first quarter; 3) the World History teacher did not assist the student for the first quarter and 4) the English teacher did not limit extensions for assignments to 24-48 hours up until 2/7/13.

The Parent, in addition to the allegations accepted for investigation, raised concerns regarding teaching methods of the Math department, communication between school personnel and the Parent, and the student's grades. The Parent was informed that these concerns were not within the jurisdiction of the Nevada Department of Education (NDE) to investigate through the Complaint process.

COMPLAINT ISSUES

During the course of the Complaint investigation, including interviews with the Parent and examination of the submitted documentation, the investigation team determined, and the Parent agreed, there was nothing in the student's IEP with respect to World History and Chemistry during the first quarter of the 2012/2013 school year that required the specific accommodations that the Parent had alleged were not implemented. Therefore, contrary to the original determination of jurisdiction over these allegations, the complaint investigation team concluded that there were no allegations of violations of the IDEA or the NAC, Chapter 388, with respect to any Chemistry or World History accommodations that were under the NDE's jurisdiction to investigate through the State special education complaint process.

The allegations articulated in the Complaint, and further clarified during the investigation as discussed in the paragraphs above, raised the following issue for investigation for the 2012/2013 school year.

Issue One: Whether the CCSD complied with the IDEA and the NAC, Chapter 388, to implement the student's IEPs in effect for the 2012/2013 school year, specifically with respect to providing the following accommodations:

- a. Allowing the student extended time on Math exams and quizzes between 8/27/12–10/2/12 and on one Math quiz on 3/8/13 when requested by the student
- b. Allowing the student a 24 to 48 hour extension to complete work in English between 8/27/12– 2/7/13 when requested by the student

PERSONS PROVIDING INFORMATION

The investigation team reviewed documents and information received from the following people:

1. Parent
2. Teacher of Record (TOR)
3. Assistant principal for fall semester of 2012 (Assistant Principal)
4. Math teacher

DOCUMENTS REVIEWED

The documents received and reviewed by the investigation team included the following:

1. Complaint
2. 2/28/12 IEP and 2/7/13 IEPs (IEPs)
3. 2012/2013 Progress Reports
4. 2011/2012 and 2012/2013 Grade Reports (Grade Reports)
5. 2012/2013 Attendance Records
6. Proficiency Exam Results
7. CCSD 2012/2013 Academic Calendar (Calendar)
8. Student status record (Status Record)
9. 2012/2013 Counselor Notes (Counselor Notes)
10. Emails from/to Parent, teachers, administration for the 2012/2013 school year (emails)
11. English teacher's log of work for 2012/2013 school year up to 5/10/13 (English Log)
12. Accommodations for Students Participating in Special Education Programs for Nevada Proficiency Exams (Accommodations Form)

FINDINGS OF FACT (FOF)

General FOF

1. This investigation involved a tenth grade student eligible for special education as a student with health impairment as the primary eligibility and emotional disturbance as another disability. (IEPs)
2. There were two Annual IEPs in effect during the time period covered by the Complaint: a 2/28/12 IEP and a 2/7/13 IEP. Neither of the IEPs had any academic goals. (IEPs)

Extended time on Math exams/quizzes

3. The accommodation in the IEPs relevant to the allegations in this Complaint with respect to Math was that the student be allowed extra time for completion of exams (or tests) and quizzes upon student request (extended time or Testing Accommodation). (IEPs)
4. During the 2012/2013 school year up to the date of the complaint there were 13 quizzes and 10 exams. (Math teacher)
5. During the first semester the student requested extended time for the first three quizzes and one test and it was not granted. Believing that it was important not to signal students out as having special needs the Math teacher had designed what he felt were alternative ways of providing the Testing Accommodation that were equivalent to it. (Math teacher)
6. Subsequent to the first three quizzes and one test discussed above in which the Testing Accommodation was not provided, the Math teacher provided the Testing Accommodation following meetings with the Parents and the student in early October. The extended time was provided on the same day after school or on the following school day with one exception described below. (Math teacher)
7. On 3/8/13 the student was not initially permitted the extended time to complete a quiz when it was requested because the Math teacher felt it would have little impact on the student's grade and wouldn't be worth the student's time nor impact the student's grade. The Parent, in a 3/11/13 email reminded the Math teacher of the Testing Accommodation. The Math teacher subsequently offered the student extended time to take the 3/8/13 quiz and the student retook the quiz with the extended time. (Parent, Math teacher, emails)
8. The student received a grade of C in Math for the second semester of the 2011/2012 school year in a class where the previous Math teacher provided extended time for exams and quizzes and received a grade of C in Math for the first semester of the 2012/2013 school year and a B in Math for the last grading report reviewed prior to the issuance of this complaint investigation report. (Grade Reports, TOR, Math teacher)
9. In early March of 2013, the student took the state Proficiency exam in Math. Additional time to take the exam was available if the student requested it. The student exceeded standards with the highest score possible in Math, a 500. (2/7/13 IEP, Test Accommodations Form, Proficiency Exam Report, TOR)

Limited extension to complete assignments in English from 8/27/13–2/7/13

10. The accommodation in the 2/28/12 IEP relevant to the allegation in this Complaint with respect to English was that the student be allowed extra time, 24-48 hours, for completion of large assignments upon student request . (2/28/12 IEP)

11. The Parent believed that the extensions should have been limited to no more than 48 hours because permitting longer extensions resulted in the student putting off doing the assignments and subsequently not doing them. (Parent)
12. The 2/28/12 IEP did not include any provision restricting the extensions to 48 hours, nor did it include any discussion indicating that providing more than a 48-hour extension when requested might result in the student failing to complete assignments. (2/28/12 IEP)
13. Up to 2/7/13, whenever the student requested extensions to complete assignments, the English teacher provided them. On a number of occasions, the student failed to complete the assignments at the end of the 24-48 hours and requested additional extensions. On these occasions, the English teacher granted the additional extensions. (English Log, English teacher)
14. The 2/7/13 IEP included under “Parental Concerns” the statement that “previous open-ended deadlines for accommodations have not resulted in positive outcomes with academic success.” While the accommodation providing extra time to complete large assignments 24-48 hours upon student request remained in the 2/7/13 IEP, the English teacher agreed to limit extensions to no more than 24-48 hours. (2/7/13 IEP, Parent, English teacher, English Log)

CONCLUSIONS OF LAW AND REASONS

State regulations at NAC §388.281(6)(g) require that the public agency shall “provide the services and instruction deemed necessary for the pupil by the [IEP] committee.” (See also 34 C.F.R. §300.323(c)(2))

- Issue One: Whether the CCSD complied with the IDEA and the NAC, Chapter 388, to implement the student’s IEPs in effect for the 2012/2013 school year, specifically with respect to providing the following accommodations:
- a. Allowing the student extended time on Math exams and quizzes between 8/27/12–10/2/13 and one Math quiz on 3/8/13
 - b. Allowing the student a 24 to 48 hour extension to complete work in English between 8/27/13– 2/7/13

a. Math

The student’s IEPs included a Testing Accommodation that required the Math teacher to provide the student with extra time for completion of test/quiz upon student request. (FOF #3) The student was not provided the Testing Accommodation for three quizzes and the first exam up through early October of the 2012/2013 school year and was not provided again on 3/8/13. (FOFs #5, #7)

Despite the well intentioned desire of the Math teacher to not draw attention to the fact that the student needed special accommodations by devising alternative ways to provide what he believed was the equivalent of the Testing Accommodation for the first three quizzes and first exam, and his belief that taking extended time for the quiz on 3/8/13 would not be worth the student's time nor impact the student's grade (FOFs #5, #7), pursuant to the NAC §388.281(6)(g) the CCSD was required "to provide the services and instruction deemed necessary for the pupil by the [IEP] committee." (See also 34 C.F.R. §300.232(c)(2))

Therefore, the complaint investigation team concluded that the CCSD failed to comply with the IDEA and the NAC, Chapter 388 when it did not provide the Testing Accommodation upon request for three quizzes and one exam at the beginning of the school year and for one additional quiz on 3/8/13.

b. English

The 2/28/12 IEP included an accommodation that required that the student be allowed an extension of 24-48 hours for completion of large assignments upon student request. (FOF #10) The Parent believed that the accommodation meant that the extensions had to be limited to no more than 48 hours. (FOF #12) However, other than the stated range, the IEP did not include any provision restricting extensions to 48 hours or any statement indicating that providing more than a 48-hour extension when requested might have a negative educational result. (FOF #12) Up until 2/7/13, when the IEP committee discussed restricting any extension to 24-48 hours (FOF #14), the English teacher provided more than 48 hours for the student to complete large assignments upon student request. (FOF #13)

Pursuant to the NAC §388.281(6)(g) which requires that the public agency shall "provide the services and instruction deemed necessary for the pupil by the [IEP] committee" the complaint investigation team determined that, in this case there was nothing in the IEP indicating that additional extensions granted beyond the 24-48 hours might result in the student failing to complete the assignments and nothing that prohibited such extensions. (FOF #12) As such, the additional extensions of time upon student request were not violative of the accommodation in the student's 2/28/12 IEP.

Therefore, the complaint investigation team concluded that the CCSD complied with the IDEA and the NAC, Chapter 388, with regard to implementing the accommodation of providing a 24-48 hour extension for completion of large assignments in the student's English class up through 2/7/13.

ORDER FOR CORRECTIVE ACTION

CCSD is required to take corrective action to address the violation found in this complaint investigation, specifically the CCSD did not provide the student the Testing Accommodation in Math as required by the IEPs.

Taking into consideration that: neither of the student's IEPs had an academic goal in math (FOF

#2); the Math teacher provided the Testing Accommodation for 90% of the exams and approximately 70% of the quizzes; the student's Math grade was equivalent to that of the previous year when the Testing Accommodation was provided 100% of the time (FOF #8) and the student received a perfect score in Math on the State Proficiency Exam (FOF #9), no compensatory education or other student specific remedy is warranted.

Professional Development/Training

Within 30 days of the receipt of this report, the CCSD must develop and submit to the NDE a proposed Correction Action Plan (CAP) to train appropriate personnel at the student's school who are responsible for implementing IEPs about the requirements for providing accommodations **as specified** in the IEPs.

The CAP must be approved by the NDE prior to implementation. Following approval of the CAP by the NDE, it must be implemented within 30 days and a report must be submitted to the NDE to document its implementation.